

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 229**

---

**Introduced by Senator Pavley**

February 23, 2009

---

~~An act to add Division 28 (commencing with Section 80500) to, and to repeal and add Article 2 (commencing with Section 150) of Chapter 2 of Division 1 of, the Water Code, relating to the Sacramento-San Joaquin Delta. An act to amend Sections 150, 151, 152, and 153 of, and to add Section 167 to, and to repeal Section 162 of, the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 229, as amended, Pavley. California Water Commission: Bay-Delta.

~~(1) Existing~~

*Existing* law establishes the 9-member California Water Commission in the Department of Water Resources and requires the commission to conduct an annual review of the progress and operation of the State Water Project and to carry out various other related functions.

This bill would revise the membership and functions of the commission. The bill would establish the commission in ~~the Natural Resources Agency~~ *state government* as an independent commission. The commission would consist of 5 members appointed by the Governor and subject to the confirmation of the Senate. ~~The commission would have primary authority to implement and approve and oversee the implementation of the Bay-Delta Interim Governance Act of 2009, as described in (2).~~ The bill would require the commission to serve as lead agency to implement projects recommended by the final environmental

impact report of the Bay-Delta Conservation Plan, or delegate these responsibilities to other appropriate state or local entities. *The commission would be required to identify and prioritize early action projects and programs for achieving specified goals for the Sacramento-San Joaquin Delta, and select a watermaster to enforce all laws that are relevant to the successful implementation of the Bay-Delta Conservation Plan. The commission would be required to establish and impose a per-acre-foot fee on water diversions within the Sacramento-San Joaquin Delta watershed, and a fee on any water conveyed through or around the Sacramento-San Joaquin Delta that may be used, upon appropriation by the Legislature, to fund the commission's responsibilities under the bill.*

~~(2) Existing law requires various state agencies to carry out programs, projects, and activities on behalf of the Sacramento-San Joaquin Delta.~~

~~The California Bay-Delta Authority Act establishes in the Natural Resources Agency the California Bay-Delta Authority. The act requires the authority and the implementing agencies to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those projects, programs, commitments, and other actions that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended.~~

~~This bill would enact the Bay-Delta Interim Governance Act of 2009 to provide for interim management and governance measures for the Bay-Delta, as defined, and to enhance the reliability of water supplies that originate in the Bay-Delta. The act would require the agency to adopt a Bay-Delta Conservation Plan for the Bay-Delta. The development and implementation of the plan would be funded through a fee established by the commission and paid by all entities that are beneficiaries, as defined, of the plan and those entities that divert water from a Bay-Delta water body. The act would require the State Board of Equalization to collect the fee and deposit the moneys collected in the Delta Governance Account, which the bill would establish. Moneys in the account would be available, upon appropriation by the Legislature, only for expenditure on projects or programs contained in the plan.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 150 of the Water Code is amended to*  
2     *read:*

3     150. (a) ~~There is in the Department of Water Resources the~~  
4     ~~California Water Commission~~ *state government the California*  
5     *Water Commission, an independent commission. In addition to its*  
6     *other duties and responsibilities contained in this article, the*  
7     *commission shall focus on early action projects and measures in*  
8     *the Sacramento-San Joaquin Delta as described in Section 167.*

9     (b) *As used in this article, "commission" means the California*  
10    *Water Commission.*

11    *SEC. 2. Section 151 of the Water Code is amended to read:*

12    151. ~~The California Water Commission~~ *commission* consists  
13    of ~~nine~~ *five* members who are appointed by the Governor *and*  
14    subject to ~~the~~ confirmation ~~of~~ *by* the Senate, as provided in this  
15    article.

16    *SEC. 3. Section 152 of the Water Code is amended to read:*

17    152. ~~Seven members of the California Water Commission~~  
18    ~~appointed by the Governor shall be selected and approved~~ *Members*  
19    *of the commission shall be selected and approved for appointment*  
20    *on the basis of their general educational and business qualifications,*  
21    *and their knowledge of, interest in, and experience with problems*  
22    *relating to the control, storage, and beneficial use of water. They*  
23    *The membership shall be appointed in such a manner as to afford*  
24    ~~representation on the commission of from~~ *representation from* all parts of the state so  
25    far as it is practicable. ~~In considering qualifications of such~~  
26    ~~members of the commission, engineering ability and experience~~  
27    ~~shall be deemed advisable. Two members of the commission~~  
28    ~~appointed by the Governor shall be members of the public having~~  
29    ~~an interest in and knowledge of the environment and need have~~  
30    ~~none of the other qualifications specified in this section. The next~~  
31    ~~two members appointed to the commission by the Governor after~~  
32    ~~the effective date of the amendment of this section at the 1970~~  
33    ~~Regular Session of the Legislature shall be members of the public~~  
34    ~~having such interest in and knowledge of the environment.~~  
35    *Members shall represent the public interest.*

36    *SEC. 4. Section 153 of the Water Code is amended to read:*

37    153. ~~The terms of the members of the California Water~~  
38    ~~Commission in office when this article takes effect shall expire as~~

1 follows: one member on January 15, 1958, two members on  
2 January 15, 1959, two members on January 15, 1960, and two  
3 members on January 15, 1961.

4 The terms of the two additional members of the commission  
5 provided for by the act amending this section first appointed by  
6 the Governor shall expire as follows: one member on January 15,  
7 1962, and one member on January 15, 1963. *The Governor shall*  
8 *appoint the initial five members of the commission on or before*  
9 *January 15, 2010. The members shall serve staggered terms. The*  
10 *terms of the members of the commission shall expire as follows:*  
11 *one member on January 15, 2011, two members on January 15,*  
12 *2012, and two members on January 15, 2013. The members of the*  
13 *commission shall allocate the initial terms among themselves by*  
14 *lot or other random method. The terms of the successors to such*  
15 *the initial members shall be for four years as provided in Section*  
16 *154.*

17 SEC. 5. Section 162 of the Water Code is repealed.

18 162. ~~It is the intention of the Legislature that in the making of~~  
19 ~~all major departmental determinations, policies and procedures,~~  
20 ~~such as departmental recommendations to the Legislature, the~~  
21 ~~director and the California Water Commission shall be in~~  
22 ~~agreement whenever possible; but for the purpose of fixing~~  
23 ~~responsibility to the Governor and to the Legislature, in the event~~  
24 ~~of disagreement between the director and the commission upon~~  
25 ~~such matters, the views of the director shall prevail. In the event~~  
26 ~~of disagreement pursuant to this section, a written report upon such~~  
27 ~~disagreement shall be made immediately to the Governor and to~~  
28 ~~the President pro Tempore of the Senate and the Speaker of the~~  
29 ~~Assembly by the commission and by the director.~~

30 SEC. 6. Section 167 is added to the Water Code, to read:

31 167. (a) *The commission shall serve as lead agency to*  
32 *implement projects recommended by the final environmental impact*  
33 *report of the Bay-Delta Conservation Plan. The commission may*  
34 *enter into agreements with appropriate state agencies to provide*  
35 *technical assistance that may be necessary to implement specific*  
36 *projects. The commission may delegate lead agency status for*  
37 *projects in the Bay-Delta Conservation Plan to other appropriate*  
38 *state or local entities.*

39 (b) *The commission shall identify and prioritize early action*  
40 *projects and programs necessary for achieving the two primary*

1 goals for the Sacramento-San Joaquin Delta of restoring the Delta  
2 ecosystem and creating a more reliable supply of water for  
3 California, while also recognizing the unique values of the Delta.

4 (c) (1) The commission shall select at least one individual to  
5 serve as a watermaster who shall be charged with the responsibility  
6 of enforcing all laws that are relevant to the successful  
7 implementation of the Bay-Delta Conservation Plan. The  
8 watermaster shall notify the commission of any action of the  
9 Natural Resources Agency, the state board, or any other  
10 governmental entity that is inconsistent with this article.

11 (2) Watermaster decisions may be appealed by an affected party  
12 to the chair of the state board. The chair may stay decisions if he  
13 or she determines that the decision of the watermaster was not  
14 supported by substantial evidence in the record. An order of the  
15 chair of the state board pursuant to this subdivision that stays an  
16 order of the watermaster shall be set for hearing before the full  
17 state board at the earliest possible meeting.

18 (d) The commission shall establish and impose a per-acre-foot  
19 fee on water diversions within the Sacramento-San Joaquin Delta  
20 watershed, and a fee on any water conveyed through or around  
21 the Sacramento-San Joaquin Delta. The costs of the commission  
22 to implement this section shall be paid, upon appropriation by the  
23 Legislature, from this fee or similar fee revenues collected by  
24 another state agency.

25  
26  
27 **All matter omitted in this version of the bill**  
28 **appears in the bill as amended in Senate,**  
29 **April 13, 2009 (JR11)**  
30